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6 UNITED STATES DISTRICT COURT FOR THE
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 KEITH ADAIR DAVIS,

10 Plaintiff,

11 v.

12 WILLIAM HAYES, et al.,

13 Defendants.

CASE NO. C16-1709 RSM

ORDER STRIKING MOTION FOR
EXTENSION OF TIME AS UNTIMELY

14 This matter comes before the Court on Plaintiff Keith Adair Davis' "Motion for Time –
15 Extension to Respond to R and R." Dkt. #96. On December 4, 2017, the Court issued a three-page
16 Report and Recommendation ("R&R") recommending the denial of Mr. Davis' pending Motion for
17 Temporary Restraining Order ("TRO"). Dkt. #74. The R&R stated, "[o]bjections, if any, to this
18 Report and Recommendation must be filed and served no later than December 18, 2017," and that
19 if no objections were filed, the matter would be ready for the Court's consideration on December
20 22, 2017. *Id.* at 3. Objections were limited to five pages. *Id.* The deadline for objections passed
21 without any filing by Mr. Davis, and on the morning of December 22, 2017, the Court issued its
22 Order adopting the R&R and denying Plaintiff's TRO Motion. Dkt. #94. Later that day, the Court
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1 was made aware of the instant Motion, dated December 18, 2017, but not received by the Court
2 until the late afternoon of December 21, 2017. Dkt. #96.

3 Mr. Davis' Motion is very brief. He states only that he was transferred to another DOC
4 facility on December 15, 2017, "[b]efore his response could be sent to the Court by the CM/ECF
5 System that is due, December 18, 2017." Dkt. #96. Mr. Davis argues that he "has no control over
6 the 'e-filing' of documents as an inmate," and that "'e-filing' is done by the DOC staff." *Id.* Mr.
7 Davis also states "receiving property is a slow-moving process." *Id.* Mr. Davis does not ask for a
8 specific amount of time to extend the deadline, and he does not attach proposed Objections.

9 "A motion for relief from a deadline should, whenever possible, be filed sufficiently in
10 advance of the deadline to allow the court to rule on the motion prior to the deadline." LCR 7(j).
11 Parties should not assume that the motion will be granted and must comply with the existing
12 deadline unless the court orders otherwise." *Id.*

13 Mr. Davis has failed to file this Motion in advance of the deadline at issue, and failed to
14 state why it was not possible to do so. Mr. Davis, signed up for prisoner e-filing, was aware of the
15 R&R and the deadline for Objections for two weeks prior to his transfer, and he fails to indicate an
16 inability to file the instant Motion earlier than December 21, 2017. Accordingly, this Motion will
17 be stricken as untimely.

18 Moreover, even if Plaintiff had established good cause for an extension of time to file
19 objections, he does not request any specific period of time, or attach his proposed Objections.

20 Finally, the underlying R&R recommended denying Mr. Davis' Motion for TRO because
21 the Defendants in this matter, staff at the King County Correctional Facility, have no authority to
22 order the Washington State Department of Corrections (DOC) to provide Mr. Davis with legal
23 materials, and no independent duty to assist Mr. Davis in preparing his case. Dkt. 74 at 2. The

1 R&R notes that “to the extent Mr. Davis seeks to bring a separate action against the DOC
2 compelling the DOC to provide the requested federal rules, he should do so by filing a separate
3 complaint...” *Id.* The Court notes that these rulings are based on the procedural posture of the
4 case and undeniable facts in the record about where Mr. Davis is housed. There is nothing Mr.
5 Davis could argue in any Objections to change the procedural basis for these rulings without
6 contradicting facts established by the record.

7 Accordingly, the Court finds and ORDERS that Plaintiff Davis’ Motion for Extension of
8 Time (Dkt. #96) is STRICKEN as untimely.

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10 Dated this 22nd day of December, 2017.

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13 RICARDO S. MARTINEZ
14 CHIEF UNITED STATES DISTRICT JUDGE
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